

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

DIANE REED BRIGHT, INDIVIDUALLY,
AND AS THE PERSONAL
REPRESENTATIVE FOR THE ESTATE OF
DECEDENT, JAMES SCOTT REED;
Plaintiff

W-20-CV-00431-ADA

-VS-

CITY OF KILLEEN, ANTHONY R
CUSTANCE, RICHARD A HATFIELD, JR.,
FRED L BASKETT, CHRISTIAN SUESS,
Defendants

**ORDER ADOPTING MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATION**

Before the Court is the Report and Recommendation of United States Magistrate Judge Jeffrey C. Manske. ECF No. 50. The Report recommends that this Court deny in part Officers Basket, Hatfield, and Suess's Motion to Dismiss all claims against them with respect to the Fourth Amendment excessive force claim and invocation of qualified immunity but grant in part as to the § 1983 and § 1985 conspiracy claims. The Report and Recommendation was filed on May 11, 2021.

A party may file specific, written objections to the proposed findings and recommendations of the magistrate judge within fourteen days after being served with a copy of the report and recommendation, thereby securing *de novo* review by the district court. 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b). A district court need not consider "[f]rivolous, conclusive, or general objections." *Battle v. U.S. Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987) (quoting *Nettles v. Wainwright*, 677 F.2d 404, 410 n.8 (5th Cir. 1982) (en banc), *overruled on other grounds by Douglass v. United States Auto. Ass'n*, 79 F.3d 1415 (5th Cir. 1996)).

Defendants timely filed objections on May 17, 2021 and May 27, 2021. ECF No. 51, 54, 55. Plaintiff similarly filed timely objections and a response in opposition to Defendants' objections on May 20, 2021. ECF No. 52, 53. The Court has conducted a *de novo* review of the motion to dismiss, the responses, the report and recommendation, the objections to the report and recommendation, and the applicable laws. After that thorough review, the Court is persuaded that the Magistrate Judge's findings and recommendation should be adopted.

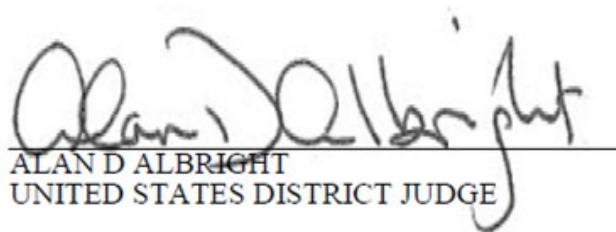
IT IS THEREFORE ORDERED that the Report and Recommendation of United States Magistrate Judge Manske, ECF No. 50, is **ADOPTED**.

IT IS FURTHER ORDERED that Defendant Christian Suess is **DISMISSED** from the case as all claims against Officer Suess are dismissed.

IT IS FURTHER ORDERED that Defendant's remaining objections are **OVERRULED**.

IT IS FURTHER ORDERED that Defendant's Motion to Dismiss (ECF No. 22) is **GRANTED IN PART AND DENIED IN PART** in accordance with the Report and Recommendation.

SIGNED this 27th day of September, 2021.


ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE